



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

LAWYERS OF MONTGOMERY COUNTY, ILLINOIS.

An address before the Third Annual Meeting of the Federation of Local Bar Associations of the Second Supreme Judicial District of Illinois, held August 9th, 1918, at Shelbyville, Illinois.

By AMOS MILLER.

I have been requested by your distinguished committee to talk on some phase of the activities of the lawyers in Montgomery County during its history.

The thought that is uppermost in the mind of every true American, is the War, and its final end. Naturally the lawyer is looked to for guidance in times of trouble and war; and this World War, the most diabolical, destructive and inhuman, on the part of the military caste of Germany, of all wars of all times, has called upon the people of our government for the exercise of patriotism, fortitude and patience.

In common with the profession, the lawyers of Montgomery county have answered the call of our country in the present conflict. Four of our members,—Judge D. W. Maddux, now Lieutenant Maddux, Joseph Major, a brother of our state's attorney, William Hudson, now lieutenant, and Joel F. McDavid, now lieutenant, have enlisted in the United States army. The latter two are now somewhere in France making the splendid sacrifice for liberty, humanity and a decent civilization in which to live. The Bar of our county, and I am sure it is true of the other counties in the district, has given freely and gladly of their service in aiding registrants to properly answer their questionnaires; a patriotic duty and service that is equal to, if not greater, than the service rendered by any other profession or class of men, excepting those who go to the trenches.

In every war in which our country has been engaged, recalling the Revolutionary War, the war with Mexico, the

Civil War, the Spanish American War and the present world catastrophe, the lawyer left his office, buckled on his knapsack, shouldered his rifle, musket or machine gun; sacrificing all, bidding goodbye to wife and children, father, mother, brother and sister, not knowing whether he would return, but if he did return well knowing his clients would have gone to others for legal assistance.

No other profession or business would suffer as his. The merchant would leave, feeling his business would remain; the farmer could depart, conscious that his land could still under God's blessing in sunshine and rain, bring forth crops for the preservation of his own. But the lawyer bade goodbye to all. All he had was in his personality; and so I am led to speak of the lawyer, for he it is to whom we must look for the legal direction of a community.

There were two streams of immigrants that flowed into Montgomery county sometime before it was organized in 1821. One was from the Southland, descendants of the Cavaliers, and the other a little later from New England, descendants of the Puritans.

Judge Hiram Rountree came here from Kentucky in 1821, bringing his family and all his possessions in an ox-wagon. He was a man of fine education, a licensed attorney; was the clerk, the first clerk of the Circuit court of our county; a perfect gentleman, exceedingly kind and polite to all; a splendid penman and at one time held every office in the county at one and the same time.

He was a soldier of the War of 1812, raised a Company, which served in the Blackhawk War, and he was captain of the company. During the Mexican War our people demonstrated their patriotism, giving their services as volunteers. Robert W. Davis, a lawyer at Hillsboro, served in this war as a private.

The Civil War of 1861-5 brought out a brilliant array from the legal profession of the county. The gallant Col. J. J. Phillips, afterwards justice of the Supreme court for this district; Major Robert McWilliams, James M. Truitt and George W. Paisley were able, learned and brilliant lawyers and each rendered conspicuous service in preserving the Union.

It has been said peace has its victories no less renowned than war.

In common with the counties in the southern part of the state, Montgomery's first courthouse was built of logs. It was built in 1823. It was one and a half stories high, and the floor, part of puncheons and the balance of dirt; the latter, was afterwards laid with brick. This was raised and replaced by a frame building, more commodious, which was built in 1833 and 1834 under contract that in its construction "the very best of timber" was to be used. In 1852 this again was replaced with a two-story brick building, parallelogram in shape. This building in 1868 was remodeled, wings on the east and west sides were added, with an imposing tower. It cost about a \$100,000.00 and was paid for with the funds arising from the sale of swamp lands of the county. The jail was built, iron cells, on the second story in the rear part of the building at a cost of \$19,000. This building is the one now standing, to which two additions have been made.

The pioneers of the early settlements in Montgomery county, were honest, industrious and hospitable. They wore clothes made by their own hands, which were mostly known and called "Jeans", color generally blue, but sometimes butternut or yellowish. It was a rare thing to see a man dressed in any other attire, or in "store clothes" as they were called.

Mr. Robert Mann relates an incident of interest. At the presidential election in 1844, when James K. Polk, Democrat, opposed Henry Clay, a Whig, the Judges of the election in Hillsboro, were David Starr, George H. Anderson and John N. Hancock, all dressed in "Jeans" and all were Democrats. A well dressed stranger, clad in "store clothes" approached the polling place and requested the right to vote. Upon inquiry it was learned he did not live in the county, but did live in the state in another county, the judges then refused to let him vote for the principal reason that they thought from his dress he must be a Whig. The stranger left the polls and in a short time returned with a statute and read from it that for president an elector had the right to vote in any county if he lived in the state. The judges then stated that they did not know that was the law and permitted him to vote. The voting as

the law was then was by viva voce, the voter named aloud in the hearing of all present, the name of his candidate. To the utter astonishment of the judges, the stranger with the "store clothes" voted for the electors of James K. Polk.

The judiciary of our state has always stood high for honesty, ability and judicial acumen. The only judge in the state that was ever put upon trial to answer articles of impeachment preferred by the House of Representatives was Theophilus W. Smith. He was a circuit judge and presided and held court in Montgomery county. He was elected in January, 1825, and resigned Dec. 26, 1842, was one of the justices of the Supreme court and presiding judge of the second judicial district of the State of Illinois. On presentation of the articles of impeachment to the august body, the Senate of the State of Illinois, proclamation was made as follows: "All persons are commanded to keep silence on pain of imprisonment whilst the grand inquest of the state is exhibiting to the Senate of Illinois, impeachment articles against Theophilus W. Smith."

The trial before the Senate lasted from January 9 to February 7, 1833. The proceedings can be found in the Senate Journal of the year 1833. He was charged with selling a clerk's office of one of the Circuit courts; with swearing out vexatious writs returnable before himself for the purpose of oppressing innocent men by holding them to bail and then continuing the suit for several terms in a court of which he was judge; suspending a lawyer from practice for advising his client to apply for a change of venue to some other circuit where Judge Smith did not preside; and for tyrannically committing to jail in Montgomery county a Quaker who entertained conscientious scruples against removing his hat in open court. The Quaker referred to was John L. Dyer, a great uncle of our esteemed brother, Judge John L. Dyer of Hillsboro.

In imagination I can give you the scene: "As Mr. Dyer entered the court room and took his seat, Judge Smith addressed the sheriff: 'Mr. Sheriff, you will have that man take off his hat in court', the sheriff speaks to Mr. Dyer, who tells the sheriff he would prefer to keep his hat on, 'I am a Quaker'. This is reported to the judge. Mr. Smith then asked, 'What

is your name?' When told the judge says, 'You will take off your hat or I'll sentence you to jail for contempt of court'. Mr. Dryer replied, 'I do not take off my hat in public places for the Almighty, and I'll not take it off for you'. The judge then sentenced him to jail for contempt. After Mr. Dryer was by the sheriff imprisoned, his friends went to Judge Smith and urged that he had made a mistake, as Mr. Dryer was one of the very best citizens in the county, law abiding and never had and never intended to do harm to any one, and certainly not to the court or judge. Whereupon, after an hour in the county jail, Mr. Dryer was released by order of the judge."

The Bar of Montgomery county have always been in favor of internal improvements. In 1852 when the question was submitted for subscription by the county of \$50,000.00 of the capital stock of the Alton & Terre Haute railroad, Judge E. Y. Rice, William Brewer and Francis Springer, D. D., and others made a vigorous campaign, resulting in carrying the measure favorably. The road was built through the county in 1854.

Again in 1868 what is now the Wabash railroad was contemplating its construction. The county, through the efforts of the members of the Bar voted and subscribed for \$50,000.00 of stock of the company.

Many incidents might be related, which would add humor, but one or two more will have to suffice. Robert W. Davis, a son of James M. Davis, who came from Bond county, was a licensed attorney but was more of a politician than a lawyer, gave but little attention to the law, although he had his card in the local papers as follows: "Robert W. Davis, attorney at law, will practice in Justice court and in *easy cases* in the Circuit Court." Perhaps one of the most brilliant lawyers in the county, if not one of the best jurists, was the late Jesse J. Phillips, gallant colonel of the Ninth Illinois Volunteers, circuit judge and afterward justice of the Supreme court of the state. His analysis of the evidence was clear and comprehensive and his application of the principles of law to a given state of facts was good.

As illustrating his sense of justice in the prosecution of criminals, the following case will show: In 1882 Ezekiel

Perrine, a farmer living near Girard in the west side of our county was robbed of \$4,000.00 in gold, which he hoarded at his home, rather than trust it in the banks. The family were bound and gagged, and the gold taken by three men, one a negro. A man by the name of Brown, was arrested in Chicago, as one of the guilty parties and the negro was arrested in St. Louis. The third man was never detected. The two were indicted and put upon trial at Hillsboro, Judge Phillips presiding. The negro had no money and the court appointed the late Judge E. Lane and Major Robert McWilliams to defend him. He agreed to tell all about how the robbery was committed and enter his plea of guilty. The court room was crowded with spectators. The case was made against Brown without the evidence of the negro. However, the state, before closing the case, put the colored man on the stand. He told a straight story, corroborating the other evidence in the case. It was time for adjournment when his direct evidence was concluded. After supper the negro was called for cross examination. The story developed by his cross examination contradicted his statements made on direct examination. The jury, however, convicted Brown, and fixed his punishment at the maximum,—twenty years in the penitentiary. When the negro was called to enter his plea of guilty, Judge Phillips before announcing the penalty, said: "When a person accused of a crime enters a plea of guilty and thereby saves the county the expense and time of a trial, he is entitled to due consideration, and should not receive the maximum punishment, therefore taking into consideration your plea of guilty and the facts in the case, the court sentences you to imprisonment in the penitentiary at Chester at hard labor for the period of nineteen years, one day thereof to be in solitary confinement." At this his attorneys vigorously protested and asked to withdraw his plea. The judge replied it was too late. The evidence shows that this defendant held a hammer in his hand and threatened to kill the two girls of the family if they attempted to move or make an outcry.

The county of Montgomery has a population of about 40,000; many are of the third generation of the pioneers who first settled in the county. They are frugal, industrious and law-abiding, and One Hundred Per Cent American. The county

has given 1,500 of her sons, in whose veins flow the red blood of patriotism, ready to make the supreme sacrifice, that the autocratic military castes of Germany may be brought to their knees and that a lasting peace, founded on justice and righteousness may be secured. Behind these boys stand our people, willing and ready to do everything possible for their comfort while at the front. Every drive for funds for the Red Cross, Y. M. C. A., Liberty Bonds and Thrift Stamps have been subscribed for over 100 per cent—over the top in each instance. The spirit of patriotism runs high. The ideals of our people are of the loftiest. This condition has been aroused to a higher degree than ever before, through the influence of the local press of our county, and especially the "Montgomery News." The editorials of which give expression to the thoughts and ideals of the rural population, far better than those of the metropolitan press.

We are a people who love peace, but not peace at any price. The diabolical atrocities of the Huns must be avenged, and the principles for which our flag stands, democratic ideals, must and will prevail throughout the nations of the earth, so that a lasting peace may be established and this old war-stricken world made a decent place in which to live.